

Notice of Allowability

Application No.

10/716,291

Applicant(s)

CANN ET AL

Examiner

Art Unit

Jennine M. Brown

1755

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to the interview summary of 7/13/05.
2. ☒ The allowed claim(s) is/are 1-13.
3. ☒ The drawings filed on 11/18/03 are accepted by the Examiner.
4. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) ☐ All b) ☐ Some* c) ☐ None of the:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

5. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
 6. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
 - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
7. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

1. ☒ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☒ Information Disclosure Statements (PTO-1449 or PTO/SB/08),
Paper No./Mail Date 4/11/05
4. ☐ Examiner's Comment Regarding Requirement for Deposit
of Biological Material
5. ☐ Notice of Informal Patent Application (PTO-152)
6. ☒ Interview Summary (PTO-413),
Paper No./Mail Date _____.
7. ☒ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other _____.

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Information Disclosure Statement

The references cited in the Search Report for PCT/US03/40138 have been considered, but will not be listed on any patent resulting from this application because they were not provided on a separate list in compliance with 37 CFR 1.98(a)(1). In order to have the references printed on such resulting patent, a separate listing, preferably on a PTO/SB/08A and 08B form, must be filed within the set period for reply to this Office action.

The information disclosure statement (IDS) submitted on 4/11/2005 was considered by the examiner.

Claim Rejections - 35 USC § 112

After reviewing MPEP 2173.05(b)(A) regarding the term "about", and applicants arguments relating thereto, the previous rejections have been withdrawn.

Terminal Disclaimer

The terminal disclaimer filed on 4/11/2005 disclaiming the terminal portion of any patent granted on this application which would extend beyond the expiration date of US Application Number 10/762494 has been reviewed and is accepted. The terminal disclaimer has been recorded and the previous double patenting rejections have been withdrawn.

Examiner's Amendment

An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided

by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Kevin Faulkner on 7/13/2005.

The application has been amended as follows:

Cancel claims 22-29 and 45-48.

Allowable Subject Matter

Claims 1-13 are allowed.

The following is an examiner's statement of reasons for allowance:

Prior art made of record in the previous office actions fail to fairly teach or disclose applicant's supported chromium catalyst because prior art fails to fairly teach or disclose the combination of elements claimed comprising chromium oxide, silica containing support comprising silica having a pore volume of about 2.4-3.7 cm³/g and a surface area of about 410-620 m²/g, an organoaluminum compound wherein said supported chromium catalyst is activated at about 400-860 degrees C. As evidenced in US 4801572, the SD-186 silica support teaches away from the silica containing support of the instant application because the pore diameter is 10-200 microns and silica supports in applicant's Table 2 have average pore diameters on the order of 90-210 angstroms. Furthermore applicants suggest that the high surface area of the instant silica supported catalyst provide an unexpectedly high productivity, producing a polymer having an advantageously high molecular weight distribution. The working examples in

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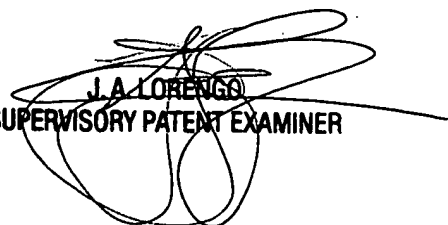
Table 12 provide a showing thereof. Previously cited references from the international search report fail to teach or disclose said combination supra because the Grace 955 silica is not within the claimed pore volume or surface area claimed.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jennine M. Brown whose telephone number is (571) 272-1364. The examiner can normally be reached on M-R 9:30 AM - 7:30 PM; Fridays off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jerry Lorengo can be reached on (571) 272-1233. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

jmb


J.A. LORENGO
SUPERVISORY PATENT EXAMINER